

REPORT
OF THE
COMPTROLLER OF THE STATE OF NEW YORK.

COMPTROLLER'S OFFICE,
ALBANY, December 31, 1881.

In pursuance of the requirements of law, the Comptroller respectfully submits to the Legislature his Annual Report.

This report, by the section of chap. 350 of the Laws of 1877, is directed to be made before the expiration of the current calendar year, and for the year ending on the 30th of the previous September, that it may be presented to the Legislature immediately after the commencement of its annual session.

The funds of the State have from time to time been divided as follows:—
The General Fund.
The Canal Fund.
The Common School Fund.
The Literature Fund.
The United States Deposit Fund.

Besides the foregoing, we have the following Trust Funds:
The Bank Fund.
The Mariner's Fund.
The Tontine Railroad Sinking Fund.
The Auburn and Rochester Railroad Sinking Fund.
The Hudson and Berkshire Railroad Sinking Fund.
The Long Island Railroad Company Sinking Fund.

The Tiooga Canal, Iron Mining and Manufacturing Company Sinking Fund.
The School and Gospel Fund of the Stockbridge Indians.

The fund for paying the interest on the bonds issued by the New York and Erie Railroad Company, and
Indian Annuities.

The ordinary expenses of the State government are paid out of the General Fund. Its nature and extent are defined and regulated in part I, chap. 9, title 1, pages 198 to 211 of the Revised Statutes, 3d edition.

The statement next following shows the receipts and payments into and from this fund, during the past fiscal year, and the next succeeding statement shows the general condition of the Treasury for the same period:—

GENERAL FUND.

Balance in the Treasury on the 30th September, 1880.....	\$54,421 38
Amount received into the Treasury on account of the General Fund, during the year ending on the 30th September, 1881, (see statement A).....	\$59,175 48
Amount transferred from the General Fund Debt Sinking Fund, for interest on Treasury bonds, during the year ending on the 30th September, 1881.....	5,807 68
Amount transferred from the Canal Fund for bonds for lands received during the year ending on the 30th September, 1881.....	5,848 76
Amount of warrants drawn on the Treasury, during the year ending on the 30th September, 1881.....	482 91
Amount of warrants drawn on the Treasury, during the year ending on the 30th September, 1881.....	\$925,536 10

SPENDING.

Balance in the Treasury on the 30th September, 1880.....	\$506,932 26
Amount received into the Treasury on account of the several funds, (see statement A) during the year ending on the 30th September, 1881.....	\$360,437 80
Amount of warrants drawn on the Treasury, during the year ending on the 30th September, 1881.....	2,501,526 50
Amount transferred from the Canal Fund, during the year ending on the 30th September, 1881.....	20,919 10
Amount of warrants drawn on the Treasury, during the year ending on the 30th September, 1881.....	277 01
Less amount of warrants drawn on the Treasury, remaining unpaid on the 30th September, 1881.....	482 91
Balance in the Treasury on the 30th September, 1881.....	\$2,308,240 10

STATEMENT OF RECEIPTS AND PAYMENTS TO THE TREASURY ON THE 30TH SEPTEMBER, 1881.

To the School Fund.....	\$112,546 13
Capital.....	180,821 41
Revenue.....	306,079 54
To the Literature Fund.....	15,062 78
Capital.....	10,361 80
Revenue.....	35,416 68
To the U. S. Deposit Fund.....	\$34,229 92
Revenue.....	5,261 21
To the Mariner's Fund.....	38,816 13
To the Railroad Sinking Fund, viz: Auburn & Rochester.....	\$4,923 79
Tontine.....	\$6,801 17
Long Island.....	115 40
Tiooga canal.....	245 37
To the General Fund Debt Sinking Fund.....	7,894 21
To the General Fund.....	15,753 97
From the General Fund Debt Sinking Fund.....	\$46,683 41
From Treasury.....	\$81,129 71
In the Treasury.....	\$26,813 12

These statements show that the expenditures for the year ending 30th September, 1880, exceeded the receipts by \$58,757 94, and that the receipts for the year ending 30th September, 1881, exceeded the expenditures by \$28,767 41.

During the year ending 30th September, 1880, the payments from this fund exceeded the receipts by \$58,757 94, and that the receipts for the year ending 30th September, 1881, exceeded the expenditures by \$28,767 41.

The sum receivable from the Canal Fund is fixed; that to be derived from taxation can be ascertained with considerable exactness; and the auction duties and minor sources of revenue, applicable to this fund, do not vary so much, from year to year, as to subject the appropriating power to very serious difficulty. But so numerous are the objects of utility or State pride soliciting pecuniary aid, and such the increasing strength and the prospective condition of the State, that it requires a vigorous and manly firmness, to keep within the bounds which a rigid and faithful guardianship of the public money would seem to impose.

Detailed statements of the receipts and disbursements of the fund are given in the appendix marked A and B.

A subject closely connected with our State finances, and one of most commanding interest, is taxation. How to so equitably divide the burden of the public burdens, as to do strict justice to all who aid in sustaining them, has always been a matter of anxious inquiry in enlightened governments.

The general principles we have decided on, appear to be approved by the great body of tax payers. Their deviations, therefore, from the system already adopted. The amendment passed at winter to our assessment law, among its other good effects, has excited a spirit of active inquiry on the part of our assessors, in regard to particular points of their official duty.

The position of these officers has been for many years past, one of great embarrassment. While urged, on the one hand, by high moral considerations, to the conscientious performance of a duty not only important in its consequences, but imposed upon them by the solemnity of an official oath, they were restrained on the other, by a full conviction that a rigid performance of that duty would inevitably lead to the most unjust and oppressive results, and that the strict rules of apparent right, had at least the apology that they were made upon the principle of self-defense; and, under all the circumstances of the case, it is not surprising that this was generally considered the only course which was exceedingly judicious; however, that there appeared to have been, since the passage of the act above referred to, a determination among these officers throughout the State, with few exceptions, to abandon the general course of the former, and to adopt a more equitable and judicious practice of greatly undervaluing real property, and to make their estimates of it, by, perhaps, the safest and best method, because the most uniform, rule, which could be adopted, and which would be least likely to be objected to, in the language of the act—"its full and true value."

The Comptroller has endeavored to direct the attention of the Legislature to some points embraced, or which should be embraced, in our assessment law, and which are

brought to his mind by the various inquiries made of the department, during the past season.

Accompanying these inquiries of assessors, there has almost always been a request that they might be furnished with the pamphlet containing the latest laws regulating assessments. No such pamphlet or pamphlet exists. Such an one, with some few additions, would go far to secure and perfect the practical improvements so well begun in the present season. It is not only a valuable desideratum that such a manual should be placed in the hands of these officers, but a more general distribution, in an acceptable form, of laws so directly concerning every citizen in the State, would seem to be among the first duties of those having the direction of these affairs.

One of the subjects of taxation on which information has been sought, is

RAILROADS.—There are several considerations connected with the assessment of railroads which deserve, and will, no doubt, soon receive, the attention of our Legislature. The amount expended in their construction is already very great, and continually increasing. The expenditure of this immense capital in this manner, much to the benefit of the community by increasing the value of property, facilitating the trade and commerce of the country, and enhancing and extending the pleasure and convenience of the people, does not, however, exonerate it from liability to just and reasonable taxation. In what manner these taxes should be imposed, to be just and reasonable, may not be easily determined. Some methods would be practicable for ascertaining the value of the property, and some for ascertaining the cost of the road. Then a question arises, as to the nature of the property to be assessed, and where it should be assessed, and in what manner.

That the fair and true value should be put upon these other property, real or personal, admits perhaps of no serious doubt; but neither the stock which may have been created by the company for its construction, nor the actual cost of the road, determine its value. Some of our railroads are owned by the State, and some by private companies. The former are assessed far more than was expended in their construction; others will command much less. How, and by whom, then, shall their true value be estimated? Certainly this cannot be conveniently or satisfactorily done by the assessors, much to the benefit of the community in this question. Shall the duty be assigned to county or State officers; shall some individual or body of individuals be charged with this duty; shall the returns of the corporations be made the ground of procedure in the matter? To the latter, it becomes important that the law be reviewed in regard to the facts to be embraced in these returns, and measures taken to secure the uniformity of these facts among the boards of assessors.

As to the kind of property to be assessed in the respective towns through which a railroad passes, there may be some diversity of opinion. Hitherto, the personal property of corporations has been assessed where the principal business of the company has been done.

In addition to money in hand, our railroad companies all have a greater or less vested interest in the stock of the company, and some of them have a large amount of stock in the hands of individuals. The stock in the hands of individuals is assessed as personal property, and not like the goods of a merchant, or the capital of a bank, in some places exclusively. There are various reasons why it is not practicable to divide the stock of these companies into two classes, making many towns instead of one, the recipients of whatever advantages result from it, than it is thus to diffuse the tax on the property of some other corporation.

By adding the value of the engines and cars to that of the road, in making the valuation, and distributing the tax on the aggregate among the towns, school and highway districts along the line, one of the anomalies and inequalities of our system of taxation is avoided.

The manner in which the tax should be levied, deserves some thought. The town or district in which heavy expenditures in depots, or upon structures of various kinds, have been made, and the variously claims an excess of tax corresponding with the excess of such outlay; so also where much more earth is used or occupied on account of the road, an increase of tax is claimed for that reason.

And again, when the road passes in a direct line through a town, such town will complain of a line apportioning the tax by the length of the line of road, because other localities gain largely by that rule in consequence of the windings and detours of the line which much lengthen the line within such locality.

After some reflection on this subject, the Comptroller has come to the conclusion that the railroads in the State should be assessed, not on the "true value," as property generally is directed by law to be estimated; but that the movable or personal property of the corporation should be added, (excepting, perhaps, the money on hand,) to the value of the road itself, and that the road tax should be assessed in the respective towns and school and highway districts, in proportion to the length of the line of road within such town or district.

INSURANCE COMPANIES.—Uniform and precise rules do not appear to be followed by the Boards of Assessors; its rules are prescribed by our laws in reference to taxing these companies, especially such as are conducted upon the plan of mutual insurance.

It will be recollected that, in the last report from this department (page 8), allusion was made to the unpaid taxes levied on several insurance companies in the State, and the report of the Board of Assessors, in relation to the same, was given. It is now reported that the Board of Assessors, in relation to the same, was given. It is now reported that the Board of Assessors, in relation to the same, was given.

That suit received its final adjudication by the Court of Appeals during the past season; the court deciding, among other things, that the property of the company was taxable, when, in case of insolvency, it would pass into the hands of its creditors.

The opinion of the court in this case, not having been published by the reporter, and involving, as it does, a matter of public interest, is appended to this report, marked C.

After this decision it was supposed such of the companies above referred to as were solvent, would pay the sums charged against them upon the books of the Comptroller. One company only, the Atlantic Mutual, did so; paying the sum of \$16,914 88. After some hesitation, the other companies declined to pay, alleging generally, as the Comptroller is advised, that the case above referred to, was imperfectly argued and considered, and the decision would probably be reversed, and that a thorough examination. The matter is with the Attorney General, and new suits are understood to be instituted against several of the companies.

A diversity of opinion has heretofore prevailed, as to what should be the basis of valuation of a mutual insurance company. Assessors are at a loss, not only whether premium notes should be added, but whether they should be treated as debts against the members, or as property of the company, or as so much other property for taxation. There is, within the State, a vast amount of this kind of indebtedness.

PLANK ROADS.—The same questions arise here as in the case of railroads, and among the towns through which they lead, as in the case of railroads. The question as to personal property applies with less force; still, as these roads are multiplying rapidly throughout our country, the propriety of defining enactments concerning them, cannot be doubted.

MOVABLE BANKS.—A certain class of banks within our State, are engaged, from time to time, in changing their place of abode, and in so doing, a bank is followed by a controversy in regard to the taxes.

Difficulties also arise where a bank is withdrawing its circulation, and perhaps the proprietors, who constitute the board of directors, are not in the same place, and, consequently, that capital or the true amount to be assessed, is continually varying. In both these cases, as well as in some others, there is an uncertainty as to the precise time when the bank becomes taxable, and the question of the tax.

Whether the third Tuesday in August, which by section four of the act of 1851, is the termination of the time the assessment rolls are left, for examination, in the hands of one of the assessors, or the eighth section of the same act, shall have completed their roll, and made and subscribed the oath required; or the day on which the supervisor to whom the roll has been delivered, shall dispose of the same as directed by section 27, p. 447, R. S.; or still later, when the supervisors, as required in section 37, p. 449, R. S., shall affix their hands and seals to the warrant, is the exact point of time when the tax is to be assessed, or whether the boards of assessors and supervisors have the right to give themselves the necessary space to perfect the rolls, are questions not known to have been adjudicated, and upon which the tax assessor is left to conjecture.

The tax assessor, if a bank is returned as unpaid, see 21, page 406, R. S., makes it the Comptroller's duty to hand over the claim to the Attorney General, who is required to institute proceedings, and to the extent of the delay, the convenience of the delay incident to these proceedings could be obviated, by requiring payment of the tax at once, by the Bank Department, from the securities in the hands of the supervisors, and by this department, would be prevented or mitigated. The tax, if it should prove to have been wrongfully paid, might be recovered; if not, its prompt payment will have been right and proper.

Owners of these franchises, in some cases, dispute the legal right to assess them. They are not mentioned by that name, in the law; and may be that assessors, feeling some reluctance to taxing a thing so uncertainly, have, for that reason, been unwilling to do so. Another, and a more operative reason, probably is to be found, in an assessor's unwillingness to engage in a conflict of doubtful termination.

The dread of a legal contest on the part of public officers, is not unfrequently, and with good reason, a great hindrance to the proper discharge of their duty. It is, in some cases, a great hindrance to the proper discharge of their duty.

where uncertainty exists as to what is, and what is not, the law.

Not only should the law be made to declare, explicitly, what property should be taxed, but the manner of enforcing the collection of that tax should be so clearly defined, that the officer need feel no hesitation or embarrassment in the performance of what the law requires of him.

THE SINKING FUND.—These establishments may or may not have been assessed, but the assessment of the sinking fund, having been called to them in one or two instances, and their numbers being on the increase, it is deemed proper to place them among the things deserving attention. They are mentioned with particular reference to the manner in which the tax should be collected in case payment is neglected or refused.

GAS COMPANIES.—Very recently, an inquiry was made of the Comptroller, by the assessors of a ward in one of our gas lighted cities, whether gas companies were taxable property, leaving the information to be fairly drawn that one of the companies at least had not been assessed.

Some of the questions here suggested may appear trivial and easily decided; but assessors are not often skilled in the subtle and allowed construction, and, moreover, called upon to perform an arduous, a thankless, but a vastly important public duty. It is due to them that their path should be clearly marked, and relieved from all embarrassing ambiguities. Their duties are highly responsible, and difficult, and when faithfully and conscientiously performed, no officer is better entitled to the guidance of plain and clearly defined legal enactments, than the assessor.

MISCELLANEOUS SOURCES OF REVENUE.—On the last report from this department, at pages 7, 8 and 9, it will be perceived that several important sources of revenue, uncertain as to the time of payment, and in some cases as to the sum which may be finally received, are there mentioned. The Comptroller has endeavored to ascertain from these sources, and of their present condition, is deemed appropriate.

1. The sum due the Treasury on the 30th September, 1880, for non-resident unpaid taxes on the years 1875, 1876, 1877, and 1878, was \$157,135; but at the close of the fiscal year last past, it was not far from \$140,000. On the advances from the Treasury for the unpaid tax of 1879, there was then due \$35,319; there is now due on the tax of 1880 not far from \$54,000, making in all, say \$241,000; to which may be added, for accruing interest, say \$30,000.

2. The sum due in certain reservations in Erie, Cattaraugus and Allegany counties, it will be recollected, were reserved from the tax sale of 1848. The sum in question was computed last year at \$91,000. Whether the counties or other parties are ready to pay this tax remains still undecided. The claim has been in the hands of the Attorney General about three years.

3. Of the \$26,000 78 due the Treasury 30th September, 1880, for the amount unpaid on the years 1875, 1876, 1877, and 1878, for the tax on the real estate of 1879, there has been received during the past fiscal year \$2,636 in cash for first payments on the real-estate of the land, and bonds taken for \$1,537 50 for other real-estate of the land, on the sale of the land, and the balance of the tax on the real-estate of 1879, there has been received during the past fiscal year \$2,636 in cash for first payments on the real-estate of the land, and bonds taken for \$1,537 50 for other real-estate of the land, on the sale of the land, and the balance of the tax on the real-estate of 1879, there has been received during the past fiscal year \$2,636 in cash for first payments on the real-estate of the land, and bonds taken for \$1,537 50 for other real-estate of the land, on the sale of the land, and the balance of the tax on the real-estate of 1879, there has been received during the past 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